



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Ultror International

File: B-233013

Date: November 29, 1988

DIGEST

Protest that solicitation specifications for construction project are unduly restrictive of competition, filed by firm whose interest is that of a prospective supplier, is dismissed since protester is not an "interested party" eligible to have its protest considered under the Competition in Contracting Act of 1984 and General Accounting Office's implementing Bid Protest Regulations.

DECISION

Ultror International protests as unduly restrictive of competition the specifications in invitation for bids (IFB) No. DACA05-88-B0204, issued by the Sacramento District of the Army Corps of Engineers for a construction project. We dismiss the protest because Ultror is not an interested party.

The IFB called for the drilling of eight wells to extract contaminated groundwater which would be pumped to a package treatment plant and also required the awardee to provide all pipes and pumps and perform all mechanical and electrical work.

Ultror protests that the IFB requires the use of the package treatment plant manufactured by Peroxidation Systems, Inc. (PSI). Ultror contends that its package treatment system, which uses a slightly different technology, could perform the required work. The Corps had earlier evaluated the system manufactured by Ultror and determined that only PSI's package treatment system would meet the agency's minimum needs. The Corps estimates that the package treatment plant constitutes approximately 20 percent of the cost of the total project being solicited under the IFB.

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Under the Competition in Contracting Act of 1984 (CICA), this Office only decides protests filed by an "interested party" which CICA defines as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." 31 U.S.C. § 3551(2) (Supp. IV 1986); 4 C.F.R. § 21.0(a) (1988). A prospective subcontractor or supplier does not have the requisite interest to be considered an interested party to protest under CICA since it is not a prospective or actual offeror. Perma-Plus Division of Midwesco, Inc., B-230702, Apr. 14, 1988, 88-1 CPD ¶ 368.

Ultrox has advised our Office that it did not intend to submit a bid for the contract work but rather wished to supply the package treatment plant to a prime contractor bidding on the IFB. Since the protester is not an actual or prospective bidder under the IFB, under CICA and our implementing Bid Protest Regulations Ultrox is not an interested party, therefore, and its protest is dismissed.



Robert M. Strong
Associate General Counsel